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EXAMINER

KE, PENG

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2174

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/810,992
Filing Date: March 16, 2001
Appellant(s): SHAOUY ET AL.

William Philip Shaouy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/5/06 appealing from the Office action mailed 6/3/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Forecast Pro, Product Description (Oct. 31, 2000) at
[Http://www.forecastpro.com/product_description.htm](http://www.forecastpro.com/product_description.htm)

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6044376 Kurtzman II 3-2000

6064980 Jacobi 5-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 18 - 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Forecast Pro.

As per claim 18, Forecast Pro teaches a method for tailoring information delivered to a user, comprising:

an arbiter selecting a personalization engine by analysis of at least one profile element;

and

the personalization engine selecting a personalized content object to tailor information provided to the user (see item 1: "The built-in expert selection system analyzes your data, selects the appropriate forecasting technique, builds the model and calculates the forecasts"; the Examiner interprets the "expert system" as an arbiter, user data as at least one profile element).

As per claim 19, which is dependent on claim 18, Forecast Pro teaches the method of claim 18 (see rejection above). Forecast Pro further teaches the method of claim 18, further comprising the arbiter receiving a request object from a user, and sending the selected

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personalized content object to the user's application program (see item 1: "The built-in expert selection system analyzes your data, selects the appropriate forecasting technique, builds the model and calculates the forecasts"; and item 4: "A few more clicks and you've ... output your forecasts to a spreadsheet, ASCII file or ODBC compliant database").

As per claim 20, which is dependent on claim 19, Forecast Pro teaches the method of claim 19 (see rejection above). Forecast Pro further teaches the method of claim 19, further comprising the arbiter receiving a profile element from a profile database (see item 5: "Forecast Pro imports data in a variety of flexible, easy-to-create formats including Excel and Lotus spreadsheets, ASCII (text) files and ODBC").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,6,8, 9 and 12- 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadowaki, U.S. Patent No. 6,313,921 in view of Forecast Pro.

As per claim 1, Kadowaki teaches a method for tailoring information to characteristics of a information user, comprising the acts of:

a) passing a request object containing at least one profile element to an arbiter (see Kadowaki, column 18, lines 38 - 61; the examiner interprets the printer controller as an arbiter because it directs personalization information to a personalization server);

b) selecting, a personalization engine from a plurality of personalization engines by the arbiter (see Kadowaki, column 15, lines 41 - 45);

c) accessing a content database to retrieve a personalized content object identified by the personalization engine selected by the arbiter (see Kadowaki, column 18, lines 63 - 67 and column 19, line 1; it is inherent that the personalization server must store and manage the personalizing information in a database if it is to extract said information for a particular user).

Kadowaki does not teach actively selecting, by analysis of the at least one profile element, a personalization engine from a plurality of personalization engines by the arbiter, the arbiter refining and altering a selection based on a number and type of the profile element. Forecast pro teaches actively selecting, by analysis of the at least one profile element, a personalization engine from a plurality of personalization engines by the arbiter (see item 1: "The built-in expert selection system analyzes your data, selects the appropriate forecasting technique, builds the model and calculates the forecasts..."),

the arbiter refining and altering a selection based on a number and type of the profile element (see item 2: "Simple Methods - For very short and extremely volatile data, Forecast Pro includes moving average models"; see item 3: "Low Volume Models Croston's Intermittent Demand model and discrete data models are provided to accommodate low volume and "sparse" data..."; the Examiner interprets "very short" and "low volume" data as a number of the profile element, and "extremely volatile data" and "sparse" as a type of the profile element).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Forecast Pro with the method of Kadowaki in order to provide more relevant results to a user.

As per claim 2, which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki further teaches the method comprising the act of passing the personalized content object to an application program (see Kadowaki, column 19, lines 1 - 3).

As per claim 4, which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki further teaches the method comprising the act of sending the request object over a communication network (see Kadowaki, column 2, lines 25 - 30).

As per claim 6, which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki further teaches the method comprising the acts of: d) accessing a profile database that stores profile elements associated with the request object (see Kadowaki, column 19, 51 - 67; it is inherent that the personalization information is stored in a database); e) retrieving from the profile database at least one profile element associated with the request object (see Kadowaki, column 18, lines 63 - 67 and column 19, lines 1 - 11); and f) including in the request object at least one profile element retrieved from the profile database (see Kadowaki, column 18, lines 38 -- 67 and column 19, lines 1 - 11; it is

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inherent that the user ID sent in the request object its part of the user profile retrieved by the personalization server).

As per claim 8, Kadowaki teaches an apparatus for tailoring information to characteristics of an information user, the apparatus comprising: a) an arbiter for accepting and analyzing a request object (see Kadowaki, column 18, lines 38 - 61; the examiner interprets the printer controller as an arbiter because it directs personalization information to a personalization server); and b) a plurality of personalization engines for selecting at least one personalization object from a content database (see Kadowaki, column 15, lines 41 - 45);

wherein the arbiter selects a personalization engine from the plurality of personalization engines (see Kadowaki, column 18, lines 38 - 44), and the selected personalization engine selects at least one personalization content from the content database (see Kadowaki, column 18, lines 62 - 67, and column 19, lines 1 - 11).

Kadowaki does not teach the arbiter refining and altering a selection based on a number and type of at least one profile element wherein the arbiter selects a personalization engine from the plurality of personalization engines by analysis of the at least one profile element. Forecast pro teaches the arbiter refining and altering a selection based on a number and type of at least one profile element contained in the request object wherein the arbiter selects a personalization engine from the plurality of personalization engines by analysis of the at least one profile element ("The built-in expert selection system analyzes your data, selects the appropriate forecasting technique, builds the model and calculates the forecasts"; "Simple Methods - For very short and extremely volatile data, Forecast Pro includes moving average models"; "Low

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Volume Models - Croston's Intermittent Demand model and discrete data models are provided to accommodate low volume and 'sparse' data... "; the Examiner interprets the "expert system" as an arbiter, user data as at least one profile element, "very short" and "low volume" data as a number of the profile element, and "extremely volatile data" and "sparse" as a type of the profile element).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Forecast Pro with the method of Kadowaki in order to provide more relevant results to a user.

As per claim 9, which is dependent on claim 8, Kadowaki and Forecast Pro teach teaches the apparatus comprising output logic for passing at least one personalization content object to an application program over a communication network (see Kadowaki column 2, lines 25 - 30 and column 19, lines 1 - 3; it is inherent that the printer controller is an application program)

As per claim 12, which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki further teaches the method of claim 1, further comprising selecting a personalization engine using at least one of an object-oriented analysis and an expert-system analysis process (see Kadowaki, column 18, lines 39 - 46; the examiner interprets a printer controller as an expert-system).

As per claim 13 which is dependent on claim 12, Kadowaki and Forecast Pro teach the method of claim 12 (see rejection above). Kadowaki further teaches the method of claim 12,

wherein the expert-system analysis comprises at least one of rule based analysis, model based analysis, and knowledge based analysis (see Kadowaki, column 18, lines 39 - 46; the examiner interprets acquiring the network address of a personalization server as a part of user ID information as performing rule-based analysis).

As per claim 14 which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki further teaches the method of claim 1, further comprising the arbiter analyzing at least one of a date of the request object, a user identity, a user shopping history, and a user usage path (see Kadowaki, column 18, lines 39 - 46).

As per claim 15 which is dependent on claim 8, Kadowaki and Forecast Pro teach the method of claim 8 (see rejection above). Kadowaki further teaches the apparatus of claim 8, wherein the arbiter is configured to receive a request object from a user (see Kadowaki, column 3, lines 5 - 6) and a profile element from a profile database (see Kadowaki, column 19, lines 1 - 3).

As per claim 16, which is dependent on claim 8, it is of similar scope to claim 12 and is rejected under the same rationale as claim 12 (see rejection above).

As per claim 17, which is dependent on claim 8, it is of similar scope to claim 14 and is rejected under the same rationale as claim 14 (see rejection above).

Claims 3, 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadowaki, U.S. Patent No. 6,313,921 in view of Forecast Pro, further in view of Kurtzman, II, U.S. Patent No. 6,044,376.

As per claim 3, which is dependent on claim 2, Kadowaki and Forecast Pro teach the method of claim 2 (see rejection above). Kadowaki and Forecast Pro do not teach the method wherein the application program is a web browser. Kurtzman, II teaches the method wherein the application program is a web browser (see Kurtzman, 11, column 3, lines 32 - 37, and column 3, lines 60 - 67; it is taught that the user communicates to the web server via a web browser, and it is inherent that when the personalized content is delivered to the user it is viewed via said web browser). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method taught by Kurtzman, 11 with the method taught by Kadowaki and Forecast Pro to provide a more sophisticated profiling technique for use in a web browser.

As per claim 5, which is dependent on claim 4, Kadowaki and Forecast Pro teach the method of claim 4 (see rejection above). Kadowaki and Forecast Pro do not teach the method wherein the communication network is the Internet. Kurtzman, 11 teaches the method wherein the communication network is the Internet (see Kurtzman, 11, column 3, lines 32 - 37, and column 3, lines 60 - 67). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method taught by Kurtzman, 11 with the method taught by Kadowaki and Forecast Pro to provide access to remote users of the system.

As per claim 10, it is of similar scope to claim 5 and is rejected under the same rationale (see rejection above).

As per claim 11, which is dependent on claim 9, Kadowaki and Forecast Pro teach method of claim 9 (see rejection above). Kadowaki and Forecast Pro do not teach the method wherein the application program is a web browser. Kurtzman, II teaches the method wherein the application program is a web browser (see Kurtzman, II, column 3, lines 32 - 37, and column 3, lines 60 - 67; it is taught that the user communicates to the web server via a web browser, and it is inherent that when the personalized content is delivered to the user it is viewed via said web browser). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method taught by Kurtzman, II with the method taught by Kadowaki and Forecast Pro to provide a more sophisticated profiling technique for use in a web browser.

Claim 7 is rejected under 35 U.S.C. 103(x) as being unpatentable over Kadowaki, U.S. Patent No. 6,313,921 in view of Forecast Pro, further in view of Jacobi et al., U.S. Patent No. 6,064,980 and Tetzlaff, U.S. Patent No. 6,556,963.

As per claim 7, which is dependent on claim 1, Kadowaki and Forecast Pro teach the method of claim 1 (see rejection above). Kadowaki and Forecast Pro do not teach the method wherein the plurality of personalization engines comprises at least two personalization engines

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selected from the group consisting of a rule-based personalization engine, a predictive-modeling personalization, and a collaborative filtering personalization.

Jacobi et al. teaches a collaborative filtering engine (see Jacobi et al., column 2, lines 18 - 21; the examiner interprets the recommendation service as a personalization engine because it uses collaborative filtering using particular user information to recommend items to users).

Tetzlaff teaches a rule-based personalization engine (see Tetzlaff, column 2, lines 22 - 27; the examiner interprets the feedback generator as a personalization engine because it uses rule-based protocol to give feedback to a user depending on a particular user model).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the personalization engines as taught by Jacobi et al. and Tetzlaff with the method of Kadowaki and Forecast Pro in order to provide more flexible means of personalization.

(10) Response to Argument

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Applicant's arguments focused on the following:

A) Examiner failed to provide evidence that Forecast Pro reference was published before 2001.

B) Forecast Pro fails to teach the arbiter select a personalization engine by analyzing at least one profile element.

C) Forecast Pro fails to teach receiving a request object from a user, and sending the selected personalized content object to the user's application program.

D) Forecast Pro fails to teach receiving a profile element from a profile database.

E) Kadowaki fails to teach passing a request object containing at least one profile element to an arbiter and an arbiter that selects a personalization engine from the plurality of personalization engines by analyzing at least one profile element.

F) Kadowaki fails to teach accessing a content database to retrieve a personalized content object.

G) Kadowaki fails to teach an arbiter for accepting and analyzing a request object.

H) Kadowaki fails to teach sending request object over a communication network.

I) Kadowaki fails to teach analyzing at least one of a data of the request object, a user identity, a user shopping history, and a user path.

Examiner disagrees:

A) The Forecast Pro reference was published before 2001 because the document has a copyright date of 2000 and it is available to the public on the world wide web before 2001. (See [Http://web.archive.org/web/*/www.forecastpro.com](http://web.archive.org/web/*/www.forecastpro.com)) Furthermore, in the advisory action of 10/18/05, examiner provided the applicant with a copy of the Forecast Pro reference that was archived by the Wayback Machine in Dec. 06, 2000. (Wayback Machine is a service that allows people to visit archived version of web sites.) The authenticity of the copy is indicated by the web address printed on the bottom of the document.

(http://web.archive.org/web/20001209085500/www.forecastpro.com/product_description.htm)

B) Forecast Pro teaches the arbiter select a personalization engine by analyzing at least one profile element. During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d

1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

In this case, Forecast Pro teaches each item recited in the claim. Forecast Pro teaches analyzing one profile element because Forecast Pro teaches analyzing user's individual history and user's characteristic, which is a profile element as indicated in the specification. (see page 5, lines 5-15 of the specification) Here, the target users of the Forecast Pro application are corporations. (Forecast Pro Section: Make Convincing Presentation, Which edition is right for you) By analyzing the business data of each individual corporation, Forecast Pro is analyzing each user's individual data.

Forecast Pro teaches personalizing engine. In applicant's specification, the engine takes user's individual data to generate new content and predict user behavior. (see Specification, page 6, lines 20-page 7, lines 5, page 7, lines 20-25) Here Forecast Pro uses different forecasting models to analyze individual user's business data, (see Forecast Pro, all edition of Forecast Pro Include) create graphs, spreadsheet, and forecast reports based on the data. (see Forecast Pro Section: Make Convincing Presentations) Therefore, Forecast Pro's forecasting models is analogous to applicant's personalizing engine.

Final Forecast Pro teaches an arbiter. In applicant's specification, the arbiter examines the profile element and selects the personalized engine. Here Forecast Pro's Expert selection system uses each business' own data to select the appropriate forecasting model and calculate the forecasts. (Forecast Pro Section: Forecast Pro Product Description, item 1) Therefore, Forecast Pro's expert system is analogous to applicant's arbiter.

C) Forecast Pro teaches receiving a request object from a user, and sending the selected personalized content object to the user's application program. Forecast Pro teaches receiving user input, (Forecast Pro: Make Convincing Presentation: mouse clicks) and outputting forecasts and historic data based on user's individual data (Forecast Pro Section: Make Convincing Presentation and Work with Your Existing Data)

D) Forecast Pro teaches receiving a profile element from a profile database. Forecast Pro receives individual business' data from its corporate database and it can import export these data from virtually any source. (Forecast Pro Section: Work with Your Existing Data)

E) Kadowaki teaches passing a request object containing at least one profile element to an arbiter.

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

In this case, Kadowaki teaches this limitation. In applicant's specification, the profile element includes user's name and network ID. In Kadowaki's system, upon user's request for a job execution, the user ID and password is passed to a personalizing server. (see Kadowaki, column 18, lines 38-61) Since, Kadowaki teaches passing of the user ID and password, Kadowaki teaches passing of at least one profile elements.

F) Kadowaki teaches accessing a content database to retrieve a personalized content object because Kadowaki's personal server has a database, which upon user's request would extract personalizing information of a particular user. (see Kadowaki, column 18, lines 60-column 19, lines 11)

G) Kadowaki teaches an arbiter for accepting and analyzing a request object. Kadowaki's personalizing server accepts a request object by authoring the user's id. (column 18, lines 60-70) The server also analyzes the request object by rewriting and updating personalized user data in its database. (column 19, lines 10-25)

H) Kadowaki teaches passing the personalized content object over a communication network because Kadowaki passes user's network id from a server to another on a local network. (column 22, lines 39-61)

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I) Kadowaki teaches analyzing at least one of a data of the request object, a user identity, a user shopping history, and a user path, because Kadowaki rewrites and updates personalizing information based on user ID. (column 19, lines 10-25)

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peng Ke

Conferees:

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The examiner is vacating the defective appeal brief.

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